

NINETY-SEVENTH YEAR.

WEDNESDAY, MORNING, DECEMBER 14, 1904.

PRICE 10 CENTS. In St. Louis, One Cent.
Outside St. Louis, Two Cents.
On Train, Three Cents.JUDGE PRIEST DENOUNCES SUIT
TO PREVENT TRANSIT MERGER

Attorney for United Railways Company Declares Charges in Action Brought by J. Brooks Johnson Are a Libel, Reflecting Upon Himself and His Associates—Tells of Transit's Operation to Tide Over Its Financial Difficulties—Court Orders Attachment for Corwin H. Spencer, Who Fails to Appear.

Judge Henry S. Priest, attorney for the United Railways Company, yesterday denounced the suit of J. Brooks Johnson to prevent the Transit merger as a libel, reflecting upon himself and his associates.

He cross-examined himself as attorney for the corporation and assailed the allegations, his statement being punctuated with objections by Judge John A. Gilliam, attorney for Johnson. Commissioner Allen permitted the statement of the corporation counsel to be placed in the records.

On examination by attorney for the plaintiff, Judge Priest admitted that he had been a director in the St. Louis Transit Company and attorney for that corporation. He also said that he was a director in the United Railways Company, for which he also was attorney. He further stated that he was attorney for Brown Bros. & Co., drafting all the papers in the deal.

B. F. Edwards, a stockholder in the United Railways Company, was the only other witness examined. He said that he did not know of the transfer of the cash of the Transit Company in the Bank of Commerce to the United Railways Company, but it was his impression the transfer was made, because the United Railways had no cash on hand before November 1. He admitted being a director in the Transit Company and approving the merger; also of having put up \$4,100 to participate in the partnership agreement with Brown Bros. & Co.

Corwin H. Spencer, vice president of the United Railways Company, who had been subpoenaed to appear before Commissioner Allen for examination, failed to appear. Judge Gilliam, attorney for Johnson, had an attachment issued for him. The attachment is returnable at 11 o'clock tomorrow morning, when Mr. Spencer is expected to make a statement.

Judge Gilliam stated that President Murray Carleton would be recalled to the witness stand to tell where the United Railways got the \$34,545.19 that was placed to its credit November 1, of which mention was made in Mr. Carleton's letter, issued to the stockholders of the United Railways Company some time ago. The letter has been admitted in evidence.

SPENCER WAS ABSENT.

When the hearing was resumed yesterday morning, Corwin H. Spencer was the first witness called, but he failed to respond. Judge Priest, who is named as a defendant in the suit, then stated that he would take the stand as a witness. He was questioned by Judge Gilliam, his answers showing his connection with the three interests. During the course of his statement Judge Priest denounced the suit in vigorous language.

"If these allegations were made without an investigation," said he, "they are infamous libels, and if made after an investigation they are, so far as they affect

me and my associates, infamous and maliciously false."

Judge Priest said that, in view of the serious charges made against himself as a director of the Transit Company and the United Railways Company, he would make a full statement of facts as he ascertained them by official investigation.

He said that the financial condition of the Transit Company had been in an embarrassed condition since the strike of 1903. The Transit's resources were dissipated, and it began to operate under the lease of the United Railways. The Transit Company made certain improvements, he declared, for which it paid cash and received securities of the United Railways Company.

Instead of selling these securities at a loss, the Transit borrowed money, pledging the securities of the United Railways Company, this money being used for further improvements.

He stated that the United Railways Company gave to the Transit its best securities, then its next best, until there was nothing left to pay for improvements, except the unpaid common stock of the United Railways Company.

LOAN OF \$2,000,000.

"In 1903," said Judge Priest, "the Transit pledged all the United Railways common stock it acquired with the lease to secure a loan of \$2,000,000. It was believed the financial condition would be relieved in 1903, and provision was made for future improvements by the issue of \$2,000,000 twenty-year 5-per-cent refunding and improvement bonds. To further the sale of these bonds the United Railways guaranteed the principal and interest upon maturity, but when the bonds were placed on the market the bids would not justify their sale.

The directors learned that the Mercantile Trust Company and Brown Bros. & Co., would make a loan of \$4,000,000 for six months on these bonds. Even with this money the Transit had a large floating indebtedness.

"The Transit was notified that the loan must be met on maturity and the company sought every method of relief. Something had to be done, and the directors permitted the Mercantile Trust Company and Brown Bros. to take the bonds at a little more than 75 net."

He stated that, in order to tide the Transit over at one time, President Murray Carleton personally pledged \$400,000, Brown Bros. \$400,000 and Louis Cella \$1,000,000. He then told of the drop in Transit stock and the panic that resulted in the merger.

Judge Priest stated that he held one share of stock in the United Railways and one share in the Transit. He admitted that, after the Transit surrendered its lease to the United Railways, Brown Bros. offered to let him participate in the reorganization to the amount of \$100,000, of which offer he availed himself.

CITY OFFICIALS REJOICE AT THE OUTCOME OF THE TEST CASE—Clearly an Exercise of Police Power.

City Officials Rejoice at the Outcome of the Test Case—Clearly an Exercise of Police Power.

City officials were rejoicing yesterday afternoon at the information which came from Jefferson City that the Supreme Court had declared in favor of the constitutionality of the "smoke ordinance" in the test case of the State versus George F. Tower.

The Supreme Court overruled all of the contentions of the defendant in his motion for a rehearing, and further held that the suppression of the nuisance is clearly a legislative power, and that the act is an exercise of the police power. Sweeping as is the decision of the court, it probably will apply to similar actions pending in the courts here.

It is said at the City Hall that because of the installation of smoke-consuming devices the smoke nuisance is not as great as it was in former years. Now that the law has been declared constitutional by the highest tribunal in the State, steps probably will be taken to further enforce the ordinance.

The information upon which Tower was convicted charged a violation of the act of March 21, 1903, which makes "the emission or discharge into the open air of dense smoke within the corporate limits of cities of this State, which now have or may hereafter have, a population of 100,000 inhabitants," a public nuisance.

The law is held to apply to the owners, lessees, occupants, managers or agents of any building, establishment or premises from which dense smoke is emitted, and such acts are constituted a misdemeanor punishable by a fine of not less than \$25 nor more than \$100.

Tower was the manager of the Goodwin Manufacturing Company on March 18, 1903, the date of the alleged offense. It appeared in evidence that the company had tried different devices for smoke abatement, but that none of them would work.

The defendant was fined \$25 by the St. Louis Court of Criminal Correction and appealed to the Supreme Court, raising the question of the constitutionality of the statute.

The defendant contended that the emission of dense smoke was an inherently a nuisance and could not be made so by statute, but the Supreme Court holds that in its supervision of the public health the Legislature did have power to enact the law.

A further contention against the validity of the statute was that it was a special law and in conflict with article IV, section 24, of the State Constitution.

In overruling this contention the court says:

"The classification is not an unreasonable one. If one corporation or individual may, with impunity, emit and discharge volumes of dense smoke into the air of a city of 100,000 people, then all other corporations, etc., may do likewise, and it is obvious that the proportion of smoke and discomfort will be much greater than if manufacturers and citizens do the same things in less populous cities, where experience shows the damage for such works is much less and the consequent accumulation of smoke correspondingly less."

The court further holds that the suppression of the nuisance was clearly a legislative power and the whole matter was in the discretion of the Legislature. The power to declare what is and shall be a public nuisance is clearly a legislative one, says the court, and the act in question is clearly an exercise of the police power.

MOTHER AND CHILDREN ASPHYXIATED BY GAS.

Mrs. Bridget Daugherty, 70 Years Old, and Her Son and Daughter Die in Springfield, Ill.

Springfield, Ill., Dec. 12.—Mrs. Bridget Daugherty, 70 years old, her son James, and daughter Anna were asphyxiated by natural gas to-day. An investigation showed that the stove consumed only about half of the natural gas turned on.

The buggy and a handsome pair of electric lights on the vehicle were totally destroyed, while the horse was slightly injured about the legs.

HEAVY SNOWSTORMS DO NOT INTERFERE WITH ERECTION OF DEFENSES AT MUKDEN



General Kuropatkin's forces have completed their trenches along the Shakhe River and have made every preparation to spend the winter in their present position. Immediately in front of the Russian lines are the Japanese works, with barbed-wire entanglements, which are so complete as to resemble permanent fortifications. In some places the two lines are so close together that patrols have to be done away with and sentinels observe the movements of the enemy through port holes of their huts. It is now the wonder of military men of all the world how two such forces can face each other so long without a bloody battle.

COURT UPHOLDS
"SMOKE ORDINANCE"

Highest State Tribunal Passes Upon Act's Constitutionality in the Tower Case.

LAW CAN NOW BE ENFORCED.

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DOCTOR TREASURER
OF TRUST COMPANY

Pinckney French Elected to Succeed Joseph L. Hanley at Missouri-Lincoln.

CHANGE ALSO IN ASSISTANT.

Annual Election in January Will Result in Several New Directors on Board—Two Resignations Accepted.



DOCTOR PINCKNEY FRENCH, Who has been elected treasurer of the Missouri-Lincoln Trust Company.

Doctor Pinckney French, second vice president of the Missouri-Lincoln Trust Company, has been elected treasurer of that institution to succeed Joseph L. Hanley. Mr. Hanley tendered his resignation last Wednesday and it was formally accepted by the Board of Directors yesterday.

Pope Sturgeon, assistant treasurer, also tendered his resignation, which was accepted yesterday. M. P. Murray Jr., formerly assistant trust officer of the company, was appointed to succeed him. Both Doctor French and Mr. Murray entered upon the duties of their new positions yesterday.

News of the changes was a great surprise in local banking circles. There had been no intimation that they were to take place, even among close friends of the men concerned. Doctor French will retain his title of vice president in addition to that of treasurer.

It is stated that further changes will occur in the Missouri-Lincoln after the annual stockholders' meeting next month. Several vacancies on the Board of Directors will be filled, and room will be made on the board for several more of the Lincoln Trust stockholders.

The last of the stock of the Lincoln Trust Company has been turned in, and all the new stock will be issued on December 28, thus closing the final details of the merger. Six of the Lincoln Trust stockholders are now serving on the board of the consolidated company.

Thomas H. Wagner and Charles Hamilton, who are now in the list of vice presidents, will be elected on the directors to fill the vacancies created by the resignation of Mr. Hanley and the death of R. M. Scruggs. The membership of the board is twenty-five.

MORE FIRING AT ZEIGLER.

Soldiers Search Woods but Make No Arrests.

REPUBLIC SPECIAL.

Springfield, Ill., Dec. 13.—Major Elliott, commanding the State troops at Zeigler, reported to Adjutant General Scott to-day that considerable firing occurred in the woods around Zeigler last night. The soldiers made a search, but failed to make any arrests.

STUDENT DEMONSTRATION
IS CRUSHED AT MOSCOW

St. Petersburg, Dec. 13.—A demonstration of students similar to that which occurred here on Saturday took place in Moscow to-day.

The police promptly dispersed the crowd. Great importance is attached to resolutions adopted by the Moscow City Council to-day in favor of freedom of speech, of the press and of domicile and for abolition of restrictive laws, etc.

CAR HITS BUFFALO;
MAN IS GORED.

Rare Animal Becomes Balky and Causes Peculiar Accident on Union Avenue.

COWBOY SERIOUSLY INJURED.

Beast Being Led to Winter Quarters From the Fair, Runs Away but Is Recaptured.

A huge buffalo being taken from the World's Fair to winter quarters in the city broke loose last night, and before it was recaptured it gored James Highlens, a cowboy, and dashed against an Olive street car.

It had to be lassoed, its four feet tied together and dragged by three horses before it was finally placed in its cage at the winter quarters on Compton avenue near Lucas.

Highlens' side was torn by the animal's horns, and he was taken to his home, at the corner of Easton and Garrison avenues, in a serious condition.

Highlens started from the World's Fair with the buffalo about 11 o'clock. The cowboy was mounted on a horse and was leading the buffalo by a rope.

When they were nearing the corner of Union avenue and Delmar boulevard, the buffalo became frightened and ran away, dragging Highlens and the horse with him.

It dashed down between the car tracks and the cowboy was powerless to stop it. At the corner it crashed into Olive street car No. 34 with such force as to shatter several windows in the car.

It was thrown back on its haunches and fell beside the tracks. Highlens sprang from his horse and secured the animal with his lasso before it could scramble to its feet.

Help was summoned and another start was made for winter quarters. The horse was injured and was left in a livery stable.

When Compton and Lucas avenues were reached the buffalo again became wild and, turning suddenly, sprang upon Highlens and gored him.

Several men ran from the winter quarters and with ropes secured the buffalo.

HEAVY SNOW IN KANSAS AND OKLAHOMA TERRITORY.

Blizzard Conditions Prevail in Several States—Below Zero in Iowa—Coldest Day of Winter in Northern Missouri.

Missouri, Iowa, Kansas and Oklahoma yesterday experienced the coldest weather of the winter, a severe blizzard prevailing in Oklahoma and Kansas, while in Northern Missouri the average temperature was 30 above zero and in Iowa the thermometer registered 4 degrees below.

A heavy fall of snow in Kansas and Oklahoma and in Southwest Missouri greatly benefited wheat, though causing much suffering to stock in the first-mentioned State.

ADMIRAL ALEXIEFF
WILL REORGANIZE
THE RUSSIAN NAVY

Czar's Uncle, Who Was Recalled From Front, Will Try to Regain Country's Prestige on Sea.

SUCCEED GRAND DUKE ALEXIS

Second Pacific Squadron Arrives at Mossambos, South Africa, on Way to the Orient.

REFORM TALK FILLS THE AIR.

Zemstvos Leaders Said to Have Been Called Together to Reconsider Memorial With the Imperial Council.

SPECIAL BY CABLE TO THE ST. LOUIS REPUBLIC AND THE NEW YORK HERALD.

St. Petersburg, Dec. 13.—(Copyright, 1904. All Rights Reserved.)—The news I sent you upon the return of Viceroy Alexieff some weeks ago to the effect that he would be made Grand Admiral, taking the place of the Grand Duke Alexis, is fully confirmed, the latter probably taking up the position of head of the Council of the Empire, hitherto held by the Grand Duke Michael, whose health prevents him from occupying the position.

This change has also further significance in view of the grand sweeping reforms in the navy, made necessary by the glaring weakness displayed in the organization of the navy during the present war, amounting to a complete breakdown of the service.

Under such conditions a man of great strength of character is needed, and Admiral Alexieff is singled out as having the capabilities necessary to carry out this most difficult task.

SQUADRON AT MOSSAMBOES.

Lisbon, Portugal, Dec. 12.—Twenty-one vessels of the Russian second Pacific squadron arrived at Mossambos, Portuguese South Africa, bound Eastward.

GARRISON WEAKENED.

Owing to the serious weakening of Stoenel's garrison by his strenuous attempts to retake 200-Meter Hill and the lack of ammunition, especially of large caliber military ordnance, here is convinced that he will be forced to concentrate his remaining strength on the promontory on the other side of the harbor.

When interviewed as to the prospects of a surrender, a son of General Stoenel and a son of General Fock agreed that neither General would be taken alive. The mother of General Fock was weeping for her son, whom she already considers lost.

The wireless station, having been utterly destroyed, the last hope of hearing from them has disappeared.

Admiral Rojestvensky's wife in an open letter expressed warm approval of Captain Clado's letter, which he has written while under arrest, and the gist of which is that the Second Squadron is unfit to fight the ships of Admiral Togo.

Mine. Rojestvensky sends 25 roubles toward a subscription started for a cadet scholarship in the name of Captain Clado.

The feeling here for the recall of Admiral Rojestvensky runs strong.

REFORMS.

The air is full of rumors of reforms. The bitter disappointments and illusions of the conflict in the far East are completely eclipsed by the keen intensity of the hopes aroused for a brighter political future.

It is stated that the leaders of the Zemstvos have again been called together to consider their original suggestions after these have passed under the criticism of the Imperial Council, which body discussed the matter in an unexpectedly liberal spirit.

That veteran, M. Souvorin, in an eloquent letter in the Novoe Vremya, calls upon all patriots in Russia to join in a grand movement of evolution, not revolution, reminding his readers of the days of Von Fiehr. No one hitherto has dared to write thus.

BROWN'S DEFECTION AROUSES CONSTITUENTS.

Mass Meeting May Be Called as Result of Representative's Move to Kerens's Side.

REPUBLIC SPECIAL.

Trenton, Mo., Dec. 13.—The announcement that D. C. Brown, Representative elect from Grundy County, is for Kerens for Senator has created so much excitement among local Republicans that there is talk of calling a mass meeting to give expression to the prevailing sentiment.

The announcement was a great surprise. Within the past few weeks Brown has repeatedly declared himself against Kerens, both for his own reasons and on account of the acknowledged wishes of his constituents. His decision is a complete flip, made since his visit to St. Louis in company with Lay Morris of Excelsior Springs. It is said Brown's son, Tom Brown, was a well-pleased visitor at Kerens's headquarters.

Grundy County is strongly for Warner, with some preferences for Niedringhaus.

LIGHTING BILL
PASSES HOUSE

Carondelet to Have Benefit of Competition From All Gas Companies.

After lying in the committee box for forty days, the bill providing for the lighting of the city south of the south line of Keokuk street, from the Mississippi River to the western limits, was passed at the session of the House of Delegates last night, fifteen members being present.

The present contract, held by the Weisbach Company, expires on February 28, 1905.

At the last session of the House a committee was appointed to confer with the Board of Public Improvements and obtain an interpretation of the meaning of the term hydro-carbon gas used in the bill.

Chairman Fontana reported that Inspector Thomas E. Carter, in a written opinion, gave the widest meaning to the term. According to the provisions, any company manufacturing illuminating gas, natural gas, ammonia or any combustible that will produce the hydro-carbon gas is eligible to present bids for the work.

Several house bills venturing streets, granting permission to lay switches connecting local manufacturing plants and railroads, and improving streets, were read and passed by the House.

GINNERS PLAN TO
OUTDO GOVERNMENT

Dallas, Tex., Dec. 13.—A meeting of cotton ginner is to be held in Dallas December 19, for the purpose of organizing a National Ginners' Association.

One purpose of the organization will be collecting from gins at stated intervals information as to the number of bales ginned, and in this way, by the use of a code, members of the association will be able to ascertain three days ahead of the Government report the amount of cotton ginned.

TO RECEIVE FOUR PORTRAITS.

Missouri Historical Society Gets Pictures of Prominent Men.

The presentation of four portraits of men who have been or are prominent in the affairs of St. Louis will take place tomorrow evening at the Missouri Historical Society, corner Sixteenth and Locust streets.

Charles Parsons will present that of Meriwether Lewis; J. Charles Cabanne that of Colonel David D. Mitchell; Judge O'Neill Ryan that of Doctor Thomas O'Reilly and J. Van Swearingen Barrett that of Doctor Emil Prentiss.

ROCKEFELLER GIVES \$3,000,000
TO THE UNIVERSITY OF CHICAGO.

Chicago, Dec. 13.—The University of Chicago is the recipient of another gift from John D. Rockefeller, according to a member of the Advisory Committee of the Baptist Theological Union.

Between \$2,000,000 and \$3,000,000 is said to be the amount of the endowment. The money, it is understood, is to be used for the creation of a school of engineering.